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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,129	11/27/2000	Dieter Dohring	TURKP0114US	4043

7590

07/16/2003

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EXAMINER

TSOY, ELENA

ART UNIT

PAPER NUMBER

1762

DATE MAILED: 07/16/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/647,129

Applicant(s)

DOHRING, DIETER

Examiner

Elena Tsou

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Response to Amendment

1. Amendment filed on June 20, 2003 has been entered. Claim 2 has been cancelled. Claims 1, 3-5, 7, 8 are pending in the application.

Specification

2. The Examiner has overlooked that the application contained an abstract of the disclosure as required by 37 CFR 1.72(b). Therefore, an abstract on a separate sheet is not required.
3. Objection to the disclosure because of the informalities has been withdrawn since language of claim 1 has been incorporated onto page 2, line 22 and language of dependent claims has been incorporated onto page 2, line 25.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1, 3, 4, 8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Michl (US 3,135,643) in view of Hoover et al (US 2,958,593), and further in view of O'Dell et al (US 5,344,704) for the reasons of record as set forth for claim 2 and claims 1, 3, 4, 8 in Paragraph Nos. 6 and 9 of the Office Action mailed on February 13, 2003 (Paper No. 16) since claim 1 has been amended to include the limitations of claim 2.

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6. **Claims 5, 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Michl (US 3,135,643) in view of Hoover et al (US 2,958,593) and Lindgren et al (US 5,034,272), and further in view of O'Dell et al (US 5,344,704).

Michl in view of Hoover et al and Lindgren et al is applied here for the same reasons as in Paragraph No. 10 of the Office Action mailed on February 13, 2003 (Paper No. 16).

Michl in view of Hoover et al and Lindgren et al fails to teach that the coating resin composition further comprises 0.5-2.5 parts of silane adhesion promoter, 0.1-0.4 parts of a wetting agent, 0.05-0.4 parts of a separating agent and an amino resin hardener; and the flow-promoting agent is used in an amount of 5-25 parts.

O'Dell et al is applied here for the same reasons as in Paragraph No. 9 of the Office Action mailed on February 13, 2003 (Paper No. 16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used conventional additives such as silane adhesion promoter, a wetting agent, humectant, mold release agent (a separating agent) and a resin curing catalyst (hardener) in a melamine resin composition of Michl in view of Hoover et al and Lindgren et al with the expectation of achieving benefits such as improved adhesion, better mold release and wetting, accelerated cure, etc., as taught by O'Dell et al.

The amounts of the conventional additives (the silane adhesion promoter, the flow-promoting agent, the wetting agent, the separating agent and the amino resin hardener) added to a resin composition would affect properties of the resin composition, i.e. the additive amounts are result-effective variables.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have discovered by routine experimentation the optimum amount of additives (including claimed amounts) in a melamine resin composition of Michl in view of Hoover et al and Lindgren et al depending on intended use of a final product, since general conditions are taught by O'Dell et al.

Response to Arguments

7. Applicants' arguments filed June 20, 2003 have been fully considered but they are not persuasive.

(A) Applicants argue that reference of Hoover et al does not relate to the production of wear-resistant laminate flooring material. Instead, Hoover et al relates to tool for floor maintenance. Consequently, the skilled person would not have looked to Hoover et al to remedy Michl.

The Examiner respectfully disagrees with this argument. First of all, claim 1 relates not to a method of the production of wear-resistant laminate flooring material but to a method of **impregnating paper** (web), which comprises the step of spraying a dispersion of an abrasive substance in an amino resin onto a paper **web**. Secondly, Hoover et al is relied upon not to show how to make tool for floor maintenance. Instead, Hoover et al is cited to show **how to spray a dispersion of an abrasive substance in an amino resin onto a web evenly**. Consequently, the skilled person would have looked to Hoover et al to remedy Michl.

It has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the

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applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Hoover et al is reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.

(B) Applicants argue that references of Hoover et al and Michl have been known for 40 years, and yet no one has sought to combine these references. Therefore, the examiner's rejection is based on hindsight.

However, test for patentability of invention relies on novelty and lack of obviousness not on age of references.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elena Tsoy whose telephone number is (703) 605-1171. The examiner can normally be reached on 9:00-5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck can be reached on (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Elena Tsoy
Examiner
Art Unit 1762

July 10, 2003



MICHAEL BARR
PRIMARY EXAMINER